

SOUTH BEND REDEVELOPMENT COMMISSION REGULAR MEETING

December 1, 2006

10:00 a.m.

Presiding: Karl G. King, President

227 West Jefferson Boulevard
South Bend, Indiana

1. ROLL CALL

Members Present:

Mr. Karl King, Vice President
Mr. Greg Downes, Secretary
Mr. William Hojnacki

Members Absent:

Ms. Marcia Jones, President
Mr. Hardie Blake, Jr.

Legal Counsel:

Ms. Cheryl Greene, Esq.

Redevelopment Staff:

Mr. Don Inks, Director
Mrs. Cheryl Phipps, Recording Secretary
Mr. Nicholas Witwer, Economic Development Specialist
Ms. Jennifer Laurent, Economic Development Specialist

Others Present:

Ms. Pam Paluszewski, Legal Dept.
Ms. Catherine Fanello
Ms. Glenda Rae Hernandez
Ms. Rita Kopala
WNDU
WSJV-Fox 28

Mr. King noted a Revised Agenda for the December 1, 2006 meeting. The Revised Agenda differs from the original Agenda by the addition of Item 6.I.(1) related to temporarily establishing guidelines for conducting a Public Hearing.

Mr. Downes made a motion that the Revised Agenda be accepted and approved. Mr. Hojnacki seconded the motion and the Commission approved the Revised Agenda dated December 1, 2006.

COMMISSION APPROVED THE REVISED
AGENDA DATED DECEMBER 1, 2006

South Bend Redevelopment Commission
Regular Meeting –December 1, 2006

2. APPROVAL OF MINUTES

**A. Approval of Minutes of the Regular Meeting of
Friday, November 17, 2006.**

Upon a motion by Mr. Downes, seconded by Mr.
King and unanimously carried, the Commission
approved the Minutes of the Regular Meeting of
Friday, November 17, 2006.

COMMISSION APPROVED THE MINUTES OF THE
REGULAR MEETING OF FRIDAY,
NOVEMBER 17, 2006

3. APPROVAL OF CLAIMS

Redevelopment Commission Claims submitted December 1, 2006 for approval.

305 SBCDA 2003 BOND

Walker Parking Consultants	1,215.08
----------------------------	----------

414 SAMPLE EWING GENERAL

Wells Fargo	400.00
-------------	--------

CFH Landscape Services	2,545.00
------------------------	----------

420 FUND TIF DISTRICT-SBCDA GENERAL

CB Richard Ellis	134.64
------------------	--------

\$	<u>4,294.72</u>
----	-----------------

Upon a motion by Mr. Hojnacki, seconded by Mr.
Downes and unanimously carried, the Commission
approved the Claims submitted December 1, 2006, and
ordered checks to be released

COMMISSION APPROVED THE CLAIMS
SUBMITTED DECEMBER 1, 2006, AND ORDERED
THE CHECKS TO BE RELEASED

4. COMMUNICATIONS

There were no Communications.

THERE WERE NO COMMUNICATIONS

5. OLD BUSINESS

There was no Old Business.

THERE WAS NO OLD BUSINESS

6. NEW BUSINESS

A. South Bend Central Development Area

- (1) Filing of Resolution No. 2280 revising the appropriation of monies for the purpose of defraying the expenses of certain local public improvements for the fiscal year beginning January 1, 2006, and ending December 31, 2006, including all outstanding claims and obligations, fixing a time when the same shall take effect and setting Monday, December 18, 2006 at 8:30 a.m. for the public hearing on Resolution No. 2280. (Fund 425)**

Mr. Inks noted that Resolution No. 2280 establishes the budget for the Leighton Plaza Retail Space and maintenance of the Leighton Plaza Courtyard.

Upon a motion by Mr. Hojnacki, seconded by Mr. Downes and unanimously carried, the Commission accepted for filing Resolution No. 2280 and setting a public hearing on Resolution No. 2280 for December 18, 2006 at 8:30 a.m.

COMMISSION ACCEPTED FOR FILING
RESOLUTION NO. 2280 AND SETTING A PUBLIC
HEARING ON RESOLUTION NO. 2280 FOR
DECEMBER 18, 2006 AT 8:30 A.M.

- (2) Commission approval requested for First Amendment to Contract for Sale of Land for Private Development between the South Bend Redevelopment Commission and the South Bend Chocolate Company, Inc. dated March 6, 2006.**

Ms. Laurent noted that on March 10, 2006 the Redevelopment Commission approved a Contract for Sale of Property for Private Development for the disposition of the former Osco's building to Mark Tarner, president of South Bend Chocolate Company, for the proposed expansion of the

6. NEW BUSINESS (CONT.)

A. South Bend Central Development Area

(2) continued...

existing and adjacent Chocolate Café. This contract made reference to the proposal submitted by Mr. Tarner and approved by the Commission which included conceptual façade renderings, drawings and site plans.

The proposed amendment to this contract includes a revised rendering as Attachment A, which represents a finalized version of the façade treatment. The project will not include the addition of a second story due to unforeseen mechanical constraints of the existing structure.

In issuing bid specifications for the property, the Commission included a preliminary engineering report that stated, in summary, that the addition of a second story to the building would likely be possible, but there remained many unknowns and it was surmised that an addition would likely be expensive. The Commission did not require bid proposals to include a second story, but specified that a second story would be desirable to promote density and visual coherence with the remainder of the block.. Mr. Tarner charged his architectural team, ADG, with designing a second story Play Café with that goal in mind. However, with much coordination and agreement with Don Fozo, Building Commissioner, it has been determined that the feasibility of the overall project would be impacted negatively by doing so. State building code compliance becomes onerous once the roof is opened, as the project would essentially be termed a new

6. NEW BUSINESS (CONT.)

A. South Bend Central Development Area

(2) continued...

construction as opposed to a rehabilitation and expansion of an existing structure.

Ms. Laurent pointed out that the Gameday project has since been proposed. There will now be a complementary, but massive 15-story building behind the Chocolate Café block, changing the visual rhythm of that streetscape.

Both projects have, interestingly, evolved from more post modern exterior treatments to brick and classicism. Marquis signage and sidewalk seating will complete the atmosphere for the Chocolate Café. The uses will remain the same, including the expansion of the Nicholas J Salon, except that the candy, card and convenience store will be omitted. The contract amendment also extends the allowable construction time, but Mr. Tarner does not expect to need the additional time. Staff has worked very closely with Mr. Tarner as this project has evolved and trusts that his revisions will ultimately lead to a more successful venture and visible anchor for our downtown Michigan Street block. Staff requests approval of the amendment to contract.

Upon a motion by Mr. Downes, seconded by Mr. Hojnacki and unanimously carried, the Commission approved the Amendment to Contract for Sale of Land for Private Development between the South Bend Redevelopment Commission and the South Bend Chocolate Company, Inc. dated March 6, 2006.

COMMISSION APPROVED THE AMENDMENT TO CONTRACT FOR SALE OF LAND FOR PRIVATE DEVELOPMENT BETWEEN THE SOUTH BEND REDEVELOPMENT COMMISSION AND THE SOUTH BEND CHOCOLATE COMPANY, INC. DATED MARCH 6, 2006

6. NEW BUSINESS (CONT.)

B. Sample-Ewing Development Area

There was no business in the Sample-Ewing Development Area.

C. Airport Economic Development Area

(1) Commission approval requested for proposal for professional services in the Airport Economic Development Area. (Voorde Drive extension)

Mr. Witwer noted that staff solicited proposals for survey and planning services related to the extension of Voorde Drive. Danch, Harner & Associates' fee was \$18,950. The fee proposed by Ken Herceg & Associates was \$22,027. Staff recommends accepting the proposal from Danch, Harner & Associates for a not-to-exceed amount of \$22,500.

Upon a motion by Mr. Downes, seconded by Mr. Hojnacki and unanimously carried, the Commission authorized the request for proposals in the Airport Economic Development Area and accepted the proposal from Danch, Harner & Associates for the scope of services proposed and a not-to-exceed amount of \$22,500.

COMMISSION AUTHORIZED THE REQUEST FOR PROPOSALS IN THE AIRPORT ECONOMIC DEVELOPMENT AREA AND ACCEPTED THE PROPOSAL FROM DANCH, HARNER & ASSOCIATES FOR THE SCOPE OF SERVICES PROPOSED AND A NOT-TO-EXCEED AMOUNT OF \$22,500.

D. South Bend Medical Services District

There was no business in the South Bend Medical Services District.

E. West Washington-Chapin Development Area

There was no business in the West Washington-Chapin Development Area.

6. NEW BUSINESS (CONT.)

F. South Side Development Area

There was no business in the South Side Development Area.

G. Northeast Neighborhood Development Area

There was no business in the Northeast Neighborhood Development Area.

H. Douglas Road Economic Development Area

There was no business in the Douglas Road Economic Development Area.

I. Other

(1) Commission approval requested for Resolution No. 2282 temporarily establishing a procedure for the conduct of public hearings.

Mr. Inks noted that the procedures attached to Resolution No. 2282 envision the distribution of any written statements to the Commissioners prior to the Commission meeting. The intent moving forward as we publish for public hearings, will be to require written remonstrances to be submitted at least two days prior to the public hearing date in order to give staff time to forward them to the Commissioners for their consideration. This change in procedure provides the Commission with an opportunity to give more consideration to the remonstrances instead of having to react quickly to remonstrances before voting on a resolution.

The balance of the procedures is comparable

6. NEW BUSINESS (CONT.)

I. Other

(1) continued...

to the practice observed locally by the South Bend Common Council. There will be a presentation by staff without limitation as to time, then anyone who wishes to speak opposed and in support of the resolution may do so with a five minute limit on each speaker. There is also a rebuttal period for the presenter which is limited to five minutes in length, followed by discussion and action by the Commission.

Ms. Greene noted that from a legal perspective, it is necessary that the public be advised of these procedures in advance. She suggested written copies of the procedures be available for the public at meetings by placing or posting the procedures next to the area where the agendas are made available near the entrance of the meeting. Any deviation from the established procedures must be provided to the public in writing prior to the meeting or noted publicly at the meeting as part of the record.

Ms. Greene noted that the Commission had expressed its preference and intent to ultimately adopt the procedures as part of its bylaws, but wanted to test the proposed procedures for a period of time before ultimately taking formal action to amend the bylaws. Therefore, Resolution No. 2282 provides the flexibility for the Commission to modify the procedures as necessary and expressly states that the procedures are temporary until such time as the Commission formally adopts them as part of its bylaws.

6. NEW BUSINESS (CONT.)

I. Other

(1) continued...

Mr. King noted that the Commission previously used the Common Council's procedure at a public hearing earlier this year. One thing that has been omitted from the Council procedures in creating the Commission's procedures is that the Council provides for a limitation on the total time available to members of the public speaking against the resolution. The new Commission procedures do not limit the total time. The Council routinely waives that limitation. We believe members of the public who wish to speak should be allowed an opportunity to be heard.

Mr. Downes asked if the Commission could change the procedures for a particular meeting to limit the total time for speaking against. His concern was that people might repeat the same information over and over, without adding any new argument. Ms. Greene responded that Legal's primary concern is that the public be given sufficient notice and an opportunity to be heard before the Commission takes final action. She further advised that it is the Commission's duty to give sufficient opportunity for public comment; therefore, if there are members of the public who wish to speak, they should be given sufficient opportunity. Legal Counsel advises the Commission against adopting any procedure that would serve to chill public comment.

Mr. Hojnacki indicated that he was not concerned about remonstrators taking too

6. NEW BUSINESS (CONT.)

I. Other

(1) continued...

long. The nature of the Commission's business requires that it interact with the public in whatever way the public wants to.

Mr. King stated that the Commission wants people to go away feeling that they've had due process.

Mr. Hojnacki noted that the procedures do not address whether a member of the public had to stay on the topic of the public hearing. Ms. Greene noted that the Commission does not have a place on the agenda where it takes public comment on non-agenda items. But the Commission has always been receptive to public comment when a member of the public wants to be heard on any subject. The Commission is also empowered by Ind. Code § 36-7-14-8(c), to adopt the rules and bylaws it considers necessary for the proper conduct of Commission proceedings and the carrying out of Commission duties

Upon a motion by Mr. Downes, seconded by Mr. Hojnacki and unanimously carried, the Commission approved Resolution No. 2282 temporarily establishing a procedure for the conduct of public hearings.

COMMISSION APPROVED RESOLUTION No. 2282
TEMPORARILY ESTABLISHING A PROCEDURE FOR
THE CONDUCT OF PUBLIC HEARINGS

7. PROGRESS REPORTS

Ms. Laurent reported that downtown businesses organized a holiday downtown shop window contest. The winners have been announced and will be featured in Michiana magazine. The winner was Chicory Café; the runners-up were the Natural Way and Ehnninger

PROGRESS REPORTS

7. PROGRESS REPORTS (CONT.)

Florist. Eighteen businesses participated; it makes the downtown look festive for the holidays.

Ms. Laurent also noted that at the December 15 meeting she will be making a report on progress at the 101 N. Michigan St. project. The developers will attend the meeting and there will be a budget presented for the façade renovations.

Ms. Kopala noted that other public bodies post their agendas at least two days in advance of their meetings. She would like the Commission to do that as well. Ms. Greene noted that the Commission meets its legal requirements by posting the agenda outside the meeting room before the meeting begins. Those other bodies which fix their agendas several days in advance of their meetings may be subject to different notice requirements or may be posting the agenda in advance as a matter of courtesy or common practice. The Commission's agenda often changes right up until the meeting starts and may change during the meeting. There is a concern that someone who sees a posted agenda well in advance of the Commission meeting might not check back later to see that an item they were interested in got added to the agenda. Mr. Inks suggested that an agenda could be posted two days in advance with a note at the bottom that the Commission's agenda frequently changes as late as the morning of the meeting. Mr. King and other Commissioners agreed that they would like to see that change.

8. NEXT COMMISSION MEETING

The next meeting of the Redevelopment Commission is scheduled for Friday, December 15, 2006 at 10:00 a.m.

NEXT COMMISSION MEETING

Mr. Inks also noted that a special meeting is needed to conduct a public hearing the week of December 18, 2006. The Commission agreed to hold the special meeting at 8:30 a.m. December 18, 2006.

South Bend Redevelopment Commission
Regular Meeting –December 1, 2006

9. ADJOURNMENT

There being no further business to come before the Redevelopment Commission, Mr. Downes made a motion that the meeting be adjourned. Mr. Hojnacki seconded the motion and the meeting was adjourned at 10:30 a.m.

ADJOURNMENT

Donald E. Inks, Director

Marcia I. Jones, President